

Each of claims 6 and 23 is readable on the elected Specie III. This is the only requisite for examining these claims in this application. The further factor that each is generic to all three Species I, II and III is broader than and encompasses the first reason, but is not essential.

The Examiner's observations regarding the nature or orientation of the "pockets" is not determinative. The election was founded and based upon the respective disclosed species by reference to the several figures of the drawing. The essential question remains whether the respective claims are applicable to the Specie III as illustrated in Fig. 10.

In the present Office Action, the Examiner asserts that "[C]laim 6 is distinct from Species I and III because it requires a plate member with openings for mounting on a wall." However, the mounting plate 24C of Fig. 10 (Species III) corresponds to the plate 24A of FIGs 6 and 7 (Species II). It is illustrated with four openings in the respective four corners for mounting the plate 24C in the same manner as the plate 24A. See FIGS. 6, 7, 10 and 12 of the drawings as well as the specification at page 6, lines 6-9. The openings are the same in both of the illustrated plates 24A (Species II) and 24C (Species III).

Moreover, in Species I (FIGS. 1-5), the main plate section 30 includes openings therethrough for passage of the detent pin 54 as well as the cross bar pin 56; *see* FIGS. 1-5 of the drawings, and particularly FIG. 4, as well as the specification at page 4, lines 30-35, and page 5, lines 6-16. The pins 54 and 56 that extend through these openings are fasteners which affix the plate 30 to a partition wall, such as to the panel 22. Note that the terms "partition" and "wall" are utilized substantially synonymously in the specification; *see, e.g.*, page 1, line 34; page 2, lines 21-23, and page 5, lines 22-30. Thus the mounting member of Species I also includes a plate portion with openings for passage of fasteners for affixing the plate to a wall. Moreover, during patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification. MPEP §2111. Claim 6 is applicable to Species III and should be examined in this application for that reason alone, as well as for the reason that it also is generic to Species I and II.

With respect to claim 23, The Examiner's rationale for non-examination is that "Claim 23 is distinct from Species II and III because it requires removable attachment to a partition." However, that rationalizing statement overlooks the recitations of claim 23 as to what is to be removably attached. Claim 23 recites the step of "removably attaching an intravenous support pole to one of said partitions ...." In the embodiment of Fig. 10 (Species III) the pole 25C along with its L-shaped mounting brackets is detachable from the plate 24C. This detachability of the hanger subassembly from the wall-mounted plate is a feature of the Fig. 10 embodiment, see for example page 6, lines 6-19, especially lines 17-19. The hanger subassembly includes the pole; see, e.g., page 3, line 33 to page 4, line 2. Claim 23 clearly applies to the embodiment of Fig. 10 (Species III), and thus also should be examined in this application. It is submitted that claim 23 also is applicable to the embodiment of species I because of the ease of detaching the entire assembly 20 of Figs. 1-5, which includes the support pole 26, from a partition 22.

Reconsideration of the status of claims 6 and 23, and inclusion of those two claims among the claims being examined herein, are requested accordingly.

As to the remaining issues concerning the election, the Examiner's reiteration that the respective species are patentably distinct is appreciated.

#### **The Rejection Under 35 U.S.C. § 112**

Claim 17 has been corrected to depend from claim 16. Claim 16 provides the requisite antecedent for the reference to "said mounting pocket" in claim 17. Accordingly, the rejection under 35 U.S.C. § 112 is deemed to be overcome.

#### **Claim Rejections – 35 U.S.C. § 102**

Several of the claims were rejected on the assertions that they are anticipated by Foley U.S.P. 3,048,360 (Foley) and or Vetter et al. U.S.P. 4,547,092 (Vetter).

Foley discloses a complex mechanism of a configuration to be mounted on and suspended from a ceiling 14. Further, the hanger pole is disposed at right angles to the ceiling surface on which the assembly is mounted. Foley's structure is substantially and

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significantly different in structure and mode of mounting, as well as use and results, from the hanger assemblies and methods of the applicants. Each of applicants' claims now more clearly distinguishes from Foley's structure, arrangement and method of mounting intravenous fluid supply containers.

Vetter discloses an accessory clamp specifically adapted for and which is used on medical tables. It relies upon the availability of a table which has a track 13 along one edge that forms a channel 38 in which the grooved clamping arrangement 34-36 slides and clamps. Vetter clearly does not disclose an intravenous infusion equipment hanger assembly and/or method as now recited more clearly in applicants' claims.

Neither Foley nor Vetter discloses either simple wall mounting hanger assemblies or methods of mounting and/or readily transferring hangers as recited in applicants' claims. Reconsideration and removal of the § 102 rejections are requested accordingly.

#### **Claim Rejections – 35 U.S.C. § 103**

Only claims 18-21 were subject to the § 103 rejections. Each of the § 103 rejections was based upon the major premise that Vetter teaches all elements included in the claims 18-21 "except a *plurality* of offset supports." That major premise is not applicable, at least not to the revised claims. Vetter clearly does not teach all of the elements included in those claims. Further there is no teaching in Vetter or elsewhere that is shown to render obvious either the parent claims or these dependent claims

Further, the examiner's implication that claims 18-20 merely involve duplication of parts and/or providing a plurality of pockets "in order to provide support for additional elongate poles" is misplaced and not applicable in this instance. The plurality of offset supports recited in each of claims 18-20 and the plurality of mounting pockets recited in claim 21 relate to the support of a single pole in each instance.

Applicants' claimed supports and methods provide simple convenient and flexible devices, combinations and methods that are both novel and useful. They provide versatile convenient mounting and secure stable support of intravenous infusion equipment hanger

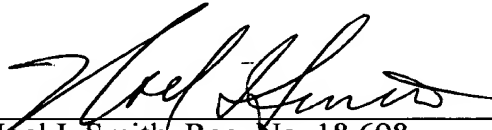
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assemblies on vertical partitions in ways which differ beneficially in structure function and result from the teachings of Foley and Vetter as well as from the other prior art. There is no factual evidence that they were obvious to those skilled in the art. Reconsideration and removal of each of the foregoing rejections, and allowance of this application are requested accordingly.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue.

Applicants' attorney called Mr. Heisey recently, seeking to arrange a telephone interview in this application. Mr. Heisey advised that he was engaged in final administrative steps in conjunction with his leaving his office and that this application was in the process of being reassigned to another examiner. It is requested that when the newly assigned examiner reaches this application for action, and has reviewed the foregoing, that he call the undersigned attorney or Mr. John Augustyn at (312) 616-5600 to arrange a telephone interview, unless it is agreed that this application now is in condition for allowance.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this AMENDMENT (along with any documents referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date:

March 3, 2000

Joel Santos

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